

UBC LAW'S
CENTRE FOR ASIAN LEGAL STUDIES

Celebrates 25 Years

It was the year John Lennon died. The year Mount Saint Helens blew. The year Lech Walesa and 10 million Poles formed Solidarity, the Soviets invaded Afghanistan and the US led 57 countries in a boycott of the Moscow Olympics. A PC hard drive held 10MB, a portable computer weighed 25 pounds and 3M put the Post-it Note on the market. Canadian voters returned Pierre Trudeau to power after Joe Clark's December defeat in Parliament, Ronald Reagan was US President-elect and George H.W. Bush his second in command. The Iran-Iraq war commenced, and a US attempt to free 53 hostages in Teheran failed. OPEC set a price ceiling of \$32 per barrel, *The Empire Strikes Back* hit North American screens and "O, Canada" was officially adopted as the Canadian National Anthem.

In Indonesia, General Suharto had been President for 15 years. Vietnam was locked in a crippling dependency on Soviet aid. Japan became the world's leading automobile manufacturer, and China tried the Gang of Four in a partially televised "show trial" that drew comparisons to Stalin. North Korea searched for a successor to President Kim Il Sung, who had held office for 31 years, a tenure exceeded only by Albania's Enver Hoxha. Students demonstrating in South Korea for freedom of the press and an end to martial law were brutally suppressed by the military under newly elected President Choi Kyu Hah. That same year, Choi's successor presented a new human-rights-centred constitution to the electorate.

And CNN launched to televise it all, 24 hours a day.

It was 1980. The world was suddenly smaller, and UBC had extended its reach—through international programming, partnerships and exchanges—to encompass the globe. It was in the midst of this tumultuous milieu that a single course in Japanese law took form, launching what is now known as the Centre for Asian Legal Studies (CALs).

Today, the program comprises seven courses in the areas of Japanese, Chinese, Southeast Asian and Korean legal studies, with 60 to 80 law students taking some level of classroom work in Asian legal studies in any given year. Programming includes survey courses as well as region-specific lectures and advanced seminars, and students hail from across North America as well as from China, Japan and Southeast Asia. In addition to creating opportunities for international student exchanges, CALs operates a visiting scholars program that hosts judges, professors, prosecutors and practising lawyers from Asia and elsewhere for up to a year. The Centre is regarded as a leading institute for Asian legal studies and research not only in North America but around the world, and as 25th-anniversary events and festivities continue throughout the 2005-06 academic year, faculty, students and partners are realizing just how much there is to celebrate. It's been a long haul.

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IAN TOWNSEND-GAULT, Co-Director, Centre for Asian Legal Studies

Back in 1980, that first course in Japanese law was launched by Professor Malcolm Smith, who had been instrumental in building Asian law activities at Melbourne University. Professor Stephan Salzberg took over in the mid-1980s, building links with Japanese legal institutions and establishing protocols for faculty and student exchanges. Visitors offered courses in Japanese Constitutional Law and Criminal Law. Through sheer force of vision, Salzberg imbued the fledgling program with a sense of identity and purpose that extended far beyond its initial scope.

The mid-'80s saw the addition of a course in Chinese law, taught by Professor Carl Herbst, and Ian Townsend-Gault joined the faculty in 1989, bringing with him a breadth of on-the-ground experience in Southeast Asia. Dr. Pitman Potter arrived in 1990 to take over the teaching of Chinese law, and added a Seminar on Trade and Investment in the PRC. Potter and Townsend-Gault assumed co-directorship of the whole, and developed the popular Introduction to Asian Legal Systems, co-taught by the three Program Directors, as well as an Asian Law Tutorial. It was in the early 1990s that the concept of unifying the three programs under the auspices of a Centre for Asian Legal Studies emerged. UBC “is one of the world’s top Asian studies universities,” says Townsend-Gault, “and we wanted to make it clear that the law school was contributing to that. In terms of fundraising, in terms of our focus vis à vis the rest of the world, it gives us that added identity.”

That sense of identity saw CALS through tough times. “For most of the 1990s,” states Townsend-Gault, “UBC was an institution in financial paralysis. Demoralization was rampant. We were unable to replace faculty members and the only reason the Centre kept going is we all had ... outside sources of

funding, which we were able to use for UBC purposes. It is a miracle that so many good people stayed. And they didn’t stay for the skiing. They stayed because, for those of us who are working in Asia, this is the place to be.”

Funding for the four programs has come from the Law Foundation of British Columbia, the Max Bell Foundation, the Canadian International Development Agency and most recently, the Korea Foundation. Stephan Salzberg established the groundbreaking Korean legal studies program in 2004, just a year before his death. It is still the only regular offering of its kind in Canada. After years of building not only programs and partnerships but also enduring relationships and trust, Salzberg’s loss was deeply felt by students, colleagues and friends on both sides of the Pacific. Professor Tae-Ung Baik, a human rights specialist from Seoul, is ensuring the Korean program finds its feet. The Japanese legal studies program is now poised for a period of new growth under recently hired Professor and Director Shigenori Matsui.

Ian Townsend-Gault’s gaze shifts from right to left as he accesses memories that date back twenty years. The quintessential professor, he has made a narrow path to his desk by piling up perhaps everything he has ever read or written on his office floor, and his sonorous, accented voice keeps up easily with the speed of sound: 340.29 words per second at sea level. Professor of Law, Director of Southeast Asian Legal Studies and Co-director of CALS, Townsend-Gault teaches courses on international law with a particular focus on marine resources; his research interests comprise the international law of the sea, international law of human rights, and marine environmental protection and cooperation. “There’s something about, I suppose, the oceans,” he confesses, “that always fascinated me, and perhaps I have an aptitude for marine things generally.”



STEPHAN SALZBERG



TAI-UNG BAIK



SHIGENORI MATSUI



Townsend-Gault took his first trip to Southeast Asia in 1985 as a member of the Dalhousie law faculty. “The very first thing they asked me to do,” he recalls, “was to organize a workshop on joint development of offshore oil and gas resources.” In 1985, “Southeast Asia” meant Indonesia, Singapore, Thailand, the Philippines, Malaysia and, from time to time, Brunei. Vietnam, Cambodia and Laos were “dark mysteries, hardly anyone we worked with had been there. They weren’t vacation or backpacker destinations!” The workshop was a success for the participants and a watershed experience for Townsend-Gault: “I got the bug. I thought, ‘How can I get back here?’”

The answer was work—the kind of path-breaking work that legal academics yearn for. Townsend-Gault got himself to Indonesia to work on an environmental project and then to Bali for a joint development workshop. There, he met leading Indonesian diplomat Hasjim Djalal, “one of these non-Javanese Indonesians who is very direct. One of the world’s most respected ocean diplomats.” Townsend-Gault placed himself beside the former ambassador at a lunch during a conference in Indonesia and “I said in that brash way young people have, ‘I like working in your region. Are there things we can do?’” Djalal suggested something be done—and quickly—to prevent the tense situation in the South China Sea from “blowing up in our faces.”

The potential powderkeg in the South China Sea stems from competing claims to the Spratly Islands by the Philippines, Vietnam, Taiwan and China. Malaysia also claims several in the southern part of the archipelago. It’s not the land—the largest of them is the size of three football fields—it’s the oil said to lie in the seabed around the islands. “It’s like the Bre-X scandal,” Townsend-Gault scoffs. “You throw mud and it sticks and people want to believe. El Dorado, ‘the big one,’ they love that myth. Competition over real estate, coupled with natural resources, is the one combination guaranteed to rob sane and balanced people of their senses.”

The strategy that Townsend-Gault and Djalal decided to try was to bring the countries together in an informal way at a track-two level, still “government to government but not officially—no flags are flying, no one’s a delegate,” to discuss cooperation on secondary issues. Their idea was that if the parties found common ground on less contentious problems, that cooperative spirit might begin to impact the more sensitive controversies.

The South China Sea, hemmed in by land, sees 52 percent of the world’s oil tanker traffic. They wash their tanks with sea water and dump the waste back over the side, creating massive pollution on the beaches, killing the reef systems and endangering the lives of people who depend on the sea for their food. Faced with verifiable numbers and facts about populations and protein needs, workshop participants gradually saw the benefit of cooperating to address the situation, their achievement laying the groundwork for more difficult conversations down the road.

“The countries themselves have taken this over,” Townsend-Gault says of the workshop process. “I think it’s perfectly fair to say that it might have happened without us, but it wouldn’t have happened when it happened, but for us.”

CALS co-director Dr. Pitman Potter is the Director of Chinese Legal Studies, as well as Director of UBC’s Institute for Asian Research. He holds a doctorate in political science, as well as his JD in law. “I initially wanted to be a Chinese art historian, to be honest,” Potter confesses. He explains the change in direction by saying, “My grandfather ... was a fairly active specialist in public international law, and then as China started to pursue its legal reforms, I became more and more interested in the way that law and economic and social change interact in China.”

Potter’s teaching, research and publishing are focused on China and Taiwan law and policy in the areas of foreign trade and investment, dispute resolution, intellectual property, contracts, business regulation and human rights.

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DR. PITMAN POTTER, Co-Director, Centre for Asian Legal Studies

Despite the load, he manages to remain *au courant* on issues of art and design and to satisfy his interests in painting, furniture and porcelain. “Understanding the role of law in Asia or in China specifically I think really requires an understanding of language and culture and history. They’re part of the picture,” Potter states. He paraphrases anthropologist Clifford Geertz: “Law is a cultural variable.”

Speaking of culture, Confucius is making a comeback in China. “There are actually research institutes focusing on Confucianism and legal culture and so on,” Potter says. “Now, there are elements of Confucianism that are quite admirable in the sense of notions about civility and mutual responsibility ... but there are also some elements that emphasize hierarchy and submission to authority that stand in tension with the liberal systems of ... Europe and North America.” Potter goes on to contrast the ways in which Chinese and “Western” societies look at the relationship between the state and society. “In the liberal tradition,” he explains “the state is an agent of the popular will, and is therefore responsible to the wishes of society, whereas in the Confucian tradition you have a patrimonial relationship that is modeled expressly on the relationship between the male head of a family and other family members. Thus the state has an obligation to look after the welfare of society, but is not really accountable to society.” Potter concedes that “absent free press, absent institutional mechanisms to ensure that the state upholds that responsibility... the lofty goals of Confucian patrimonial sovereignty often don’t get met. On the other hand, in North America and Europe you do see levels of accountability but ... you have very disturbing rates of poverty and disadvantage

and inequality. I think it’s useful to think of them as two typologies of governance [where] law is implicated heavily in both, and I think there is an element that each can learn from the other.”

That opportunity for cross-fertilization of ideas lies at the heart of the structure of the Centre for Asian Legal Studies, and likely lies behind its success as well. CALS is founded on the idea that, as Townsend-Gault puts it, “If you put your head in the sand, someone’s going to cut you off at the neck. It simply seems to me to be an element of the basic education for a lawyer that you know how the international legal system works. We can’t possibly graduate students from this institution who don’t know what a treaty is, for example ... any more than it would be responsible to graduate someone who doesn’t know the way around Canada’s constitution or how legislation is made.”

To that end, the Faculty is creating a new, compulsory first-year course called Transnational Law that will introduce students to international law and conflict of laws. Other goals include continuing to raise funds to provide a full-time permanent position for the Korean Legal Studies Program; supporting Professor Matsui in efforts to continue the development of the Japanese program; creating a series of regional comparative courses; and adding more Asian countries, such as India, to the curriculum. Meanwhile, though, the Centre has some celebrating to do. “We have, through a visionary commitment of the law school [and] the British Columbia government, been able to establish and sustain one of the leading centres for building knowledge on Asian law,” says Pitman Potter, “and that’s both a tribute to Canada and a tribute to the University.” ●

